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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 September 2008*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *68-129* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *68-129* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All   b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   Applicant's submission filed on 9-25-08 has been entered. Claims 68-129 are pending.

The examiner has considered the applicant's arguments in view of the disclosure and the present

state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the

reasons set forth in this Office action:

Specification

2.   Applicant is reminded that specification should again be updated to include the current

status and patent numbers for any listed applications that are issued or abandoned.

Priority

3.   Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or

under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or

more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

The later-filed application must be an application for a patent for an invention that is also

disclosed in the prior application (the parent or original nonprovisional application or provisional

application). The disclosure of the invention in the parent application and in the later-filed

application must be sufficient to comply with the requirements of the first paragraph of 35

U.S.C. 112.   See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32

USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the following prior-filed applications fails to provide adequate support

or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more

claims of this application:

> ➤ Application No. 10/151,635, filed 20 May 2002, which is (1) a CIP of 09/615,473,
>   filed 13 July 2002; (2) CIP of 09/334,584, filed 16 July 1999 (now US 6,781,518),

which is a CIP of 09/121,229, filed 23 July 1998 (now US 6,157,319); and (3) a CIP of 09/905,423, filed 13 July 2001, which claims benefit of 60/264,767, filed on 29 January 2001.

➢ Application No. 10/288,727, which claims benefit of 60/344,020, filed 20 December 2001, and 60/334,774, filed 20 November 2001.

These applications (10/151,635, 09/615,473, 09/334,584, 09/121,229, 09/905,423, and 10/288,727 all fail to provide adequate support a radio frequency identification (RFID) tag and reading system as claimed in claims 68-81, 84-92 and 95-109 discussed on pages 11-18, 26-31, 36 and 115-119 of the current specification as filed. These applications also lacks support for the interrogation signal in claims 110-129 and the electronic product code, DAS and FCD in dependent claims 111, 113,114,116,118,119,121,123,124,126,128,129. Further, although the 10151635 application included manufacturer information, the other claimed applications fail to provide adequate support for the machine readable tag storing standardized information that functions to identify at least the appliance and manufacturer of the appliance in claims 82-109. Consequently, in the prosecution of this application, the priority date of the subject matter in claims 82-83, 93-94 and 110-129 is established to be the filing date of the 10151635 application (20 May 2002), and for the subject matter of all other claims is established to be the filing date of the instant application (i.e., 19 September 2003).

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5.   Claim 68-71 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to reasonably convey to one skilled in the relevant

art that the inventor(s), at the time the application was filed, had possession of the claimed

invention. Applicant has not pointed out support in the specification as originally filed for the

amended claim 68 including: configuring at an appliance one or more appliance operational

preferences for the appliance; storing within a memory device in of the appliance a mapping

between the one or more configured appliance operational preferences and an individual ;and

causing a setup program of the appliance to use the data received from the RFID tag and

forwarded from the universal remote control to retrieve from the memory device in of the

appliance the one or more configured appliance operational preferences that have been mapped

to the individual represented by the data received from the RFID tag and to configure the

appliance according to the retrieved, configured appliance operational preferences.

Claim Rejections - 35 USC § 103

6.   The text of those sections of Title 35, U.S. Code not included in this action can be found

in a prior Office action.

7.   Claims 68-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stefanik

US006750801B2) in combination with Kaario (US 2005/0242167) and Nickum

(US006359661B1).

Regarding claim 68, Stefanik discloses a method of configuring an appliance including

receiving data directly from a smartcard via the receiver of a universal remote control the data

user profile, parental controls, visual settings or any other information individualized to the user

or unique to the individual in col. 6 lines 54-62. Stefanik discloses configuring at the appliance

one or more operational preference for the appliance (updating of settings on the consumer

electronic device in col. 7 lines 25-40. The updated setting are also transferred to the smartcard. Stefanik discloses receiving personal preference data directly from a smartcard via a receiver (reader 90) of the universal remote control and forwarding the data from the remote control by transmitter 86 to receiver 144 of appliance or consumer electronic device 140 in fig. 4 and col. 7 lines 10-24. The appliance is programmed to be configured in response to the received forwarded configured data in col. 5 lines 24-41. Stefanik differs from the claims by not specifying the smartcard is an RFID tag and not specifying preference data mapped within memory of the appliance and retrieved in accordance with the individual represented by the RFID. But RFID is implied by the contactless, proximity card storing user profiles and other data in col. 6 lines 39-62.

Kaario discloses an analogous art method of configuring an appliance using an RFID token or tag. See the abstract. Par. 0043 and 0066 state that ID data may be stored on an RFID tag/transponder, or smart card, or other media. The appliance includes memory 235 that maps preferences to the appliance based on the individual identified by the RFID/smartcard. See par. 0036 and 0041. The mass storage memory may be memory local or remote to the appliance and in fact the appliance itself may be a server operating through a link in par. 0039 so that the profile server and/or memory may be in or at the appliance. The token ID may be the same as the URL and represent the address of the profile in par. 0056 and 0043. Kaario discloses configuring preference at an appliance in par. 0063 and identifying a profile for configuring the appliance from an RFID in par. 0041-0043 and 0064-0065. A combined profile of previously configured profiles may be stored at the appliance and the user may select from the combined profile and/or the user profile identified by the RFID tag in par. 0058-0059.

Nickum discloses an analogous art system and method for creating, maintaining and

activating a user customizable profile by inputting an ID via a remote controller. The profile

may be stored in the remote or alternatively stored in the appliance, such as a TV, and selected

by the ID. The ID may be stored in the remote or input by the user, and may provide access

restriction such as channel blocking. See the abstract col. 4 line 32 col. 5 line 65 and col. 8 lines

34-46.   EEPROM 250 stores ID's to allow a user to modify or activate their particular (mapped

to ID) customized profile in RAM 240 in col. 6 line 58 - col. 7 line 11. This profile and

programming may be stored in circuitry at the TV in col. 8 lines 34-46.

Regarding claim 68, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to have modified the method of Stefanik to have included the

identifying information on a RFID as disclosed in Kaario because Kaario discloses RFID and

smart card as obvious alternatives for appliance configuration and Stefanik suggest contactless

reading in col. 6 lines 50-53. Alternatively, it would have been obvious to have included the in

Kaario the reader on the universal remote 210 to forward the information to the appliance as

disclosed by Stefanik in view of Kaario teaching the storing the RFID data on other devices.

Further, storing within memory of the appliance one or more preferences mapped to an

individual represented by the RFID would have been obvious in view of the memory in the

appliance of Kaario for storing electronic program guide (EPG) information and Nickum

disclosing user customized profile related to channel selection and other TV programming

selected by a mapped user ID and stored on the appliance as an alternative to storage on the

remote control and suggested by Stefanik also being directed to configuration of EPG events and

other settings. Although Kaario discloses URL or IP address identifying the location of data on a

network, it would have been obvious to have stored the data on the appliance in view of par. 39

line 5 of Kaario disclosing that data can be stored locally or remotely and par. 0063-0064 of

Kaario disclosing uploading or moving of profiles from the appliance to a server or another

appliance, thus storing one or more profile on an appliance.

Configuring at an appliance one or more appliance operational preferences for the

appliance; storing within a memory device in of the appliance a mapping between the one or

more configured appliance operational preferences and an individual; and causing a setup

program of the appliance to use the data received from the RFID tag and forwarded from the

universal remote control to retrieve from the memory device in of the appliance the one or more

configured appliance operational preferences that have been mapped to the individual

represented by the data received from the RFID tag and to configure the appliance according to

the retrieved, configured appliance operational preferences would have been obvious in view of

configuring preference at an appliance in par. 0063 of Kaario and customized preferences at TV

in col. 8 lines 34-46 of Nickum and further in view of identifying a profile for configuring the

appliance from an RFID in par. 0041-0043 and 0064-0065 and identifying a configured profile to

be activated for configuring or customizing in col. 6 line 58 - col. 7 line 11 of Nickum.

Alternatively or in addition, a combined profile of previously configured profiles may be stored

at the appliance and the user may select from the combined profile and/or the user profile

identified by the RFID tag in par. 0058-0059. The mass storage memory may be memory local

or remote to the appliance and in fact the appliance itself may be a server operating through a

link so that the profile server may actually be in or at the appliance.

Regarding claim 69, limited access would have been obvious in view of the parental

controls, pay-per-view purchase and spending limits in col. 6 lines 54-63 of Stefanik.

Regarding claim 70, accessing content would have been obvious in view of the user

history, favorite shows, favorite channels,... in col. 6 lines 54-63 of Stefanik.

Regarding claim 71, command transmission would have been obvious in view of

forwarding the read data by remote control signal in col. 7 lines 17-24 and/or the parental control

and visual settings in col. 6 lines 54-63 of Stefanik.

8.   Claims 82-86, 93-97 and 108-109, 111, 115-119, 121 and 126 are rejected under 35

U.S.C. 103(a) as being unpatentable over Yang (US 6,133,847) in view of Kitao

(US006124804A) and [Sarma (The Networked Physical World) or Brock (The Electronic

Product Code)].

Referring to claims 82 and 93, Yang teaches a configurable remote control device 100

having a memory 120 that stores programming code for controlling a plurality of appliances 160,

such as VCR 200 and TV 220 (see Figs. 1-3B; Col. 3, lines 50-56; Col. 4, lines 39-46; and Col.

8, lines 32-44). As shown in Figs. 1-3B, Yang's remote control device 100 communicates bi-

directionally with appliance 160 via data link 150, which is a radio frequency (RF) signal (see

Col. 3, lines 19-24 and 66-67; Col. 4, lines 1-5; and Col. 8, lines 10-24). As shown in Fig. 4,

Yang's method for setting up remote control device 100, which includes processor 135 and

instructions for setting up remote control device 100 upon receiving an appliance 160's interface

control signal (see Col. 4, lines 6-14), comprises (a) receiving an interface control signal, which

is an identification signal, from a plurality of appliances 160 via remote control device 100's

receiver 112 at step 410 (see Fig. 1; Col. 3, lines 25-29 and 50-65; Col. 7, lines 22-26; and Col.

8, lines 10-17 and 54-59); and (b) using the interface control signal received from each appliance 160 to cause select commands to be mapped to select command keys at steps 415 and 420, whereby remote control device 100 is set up such that activation of one or more of the select command keys causes remote control device 100 to issue via its transmitter 114 one or more of the select commands to command operation of an appliance 160 that has been associated with the interface control signal at step 425 (see Figs. 2A, 2B, 3A, and 3B; Col. 4, lines 6-31 and 52-67; Col. 5, lines 1-32 and 48-67; Col. 6, lines 1-58; and Col. 7, lines 26-34). Yang discloses a separate transmitter 114 and receiver 112 that may be of different medium (IR vs. RF) but uses the transmitter for remote control signals (col. 3 lines 7-46). Data (interface control signal to identify appliance) received into the universal remote is used access information (programming code) to configure the remote (col. 8 lines 54-57). Yang, however, fails to teach that the interface control signal is received from a machine readable tag storing standardized information that functions to identify at least the appliance and vendor of the appliance.

In analogous art, Kitao discloses a method and configuring a remote controller. The remote controller sends a trigger signal and the appliance that replies with a identifying device code stored in memory 117. The device code includes information identifying the manufacturer name and the appliance (such as category, version, lot number). This information is used to configure the controller. See col. 3 lines 15-33 and col. 4 lines 33-67. The controller may include a trigger transmitter 301 separate from the remote control command transmitter 302 and receiver 105 in fig. 3 and col. 8 lines 60-65. Data (device code) received into the universal remote is used access information (control code table) to configure the remote (col. 4 lines 58-64).

Sarma discloses a method for tagging of products or objects with ID using an open architecture that is flexible and adaptable to change. An electronic product code or EPC standard code with code including manufacturer and product data is included on pg. 6, fig. 1 that is stored in a RF or EMID tag in sec. 4.2 on pp. 6+. Scanned optical UPC tags are discussed on pg. 6 lines 5-6 as known standard ID tags. Use in the home is provided by discussion of UPnP for home in sec. 8.2 on pg. 14 and HAVi protocol for home use in sec. 8.4 on pp. 14+.

Brock discloses a method for tagging of products or objects with ID using an open standard that is simple, extensible and efficient. An electronic product code or EPC standard code with code having manufacturer and product data is included in fig. 9 and sec. 5.4.1 on pp. 19+ that is stored in a barcode, RFID or EMID tag in sec. 2.1 on pg. 6. Scanned optical UPC tags are further discussed in sec. 3.1 on pp. 7+ and sec. 4.12 on pp. 17+ as known in barcode tags that include manufacturer and product information. Use in the home is provided by discussion operating not just at checkout, but in the home in sec. 2 (line 10) on p. 5.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Yang's remote control device 100 and method as taught by Sarma or Brock such that a remote control device 100 receives appliance 160's interface control data from a machine readable tag storing standardized information that functions to identify at least the appliance and manufacturer of the appliance because the tag of Sarma or Brock enables flexible, simple, extensible and efficient retrieval of pertinent information to uniquely identify a plurality of items for use in the home and is suggested by Kitao using a device code with manufacturer and appliance data in a memory tagging an appliance for configuring a remote controller. Further, regarding separate transmission circuit, Yang discloses command transmitter

114 and data receiver 114, but if a trigger/interrogation transmitter separate from the command

transmitter is required, then such would have been obvious in view of Kitao because Kitao

discloses such two transmitters as an alternative configuration in a method for configuring a

remote controller. Further, it has been held that to be entitled to weight in method claims, the

recited structure limitations therein must affect the method in a manipulative sense, and not to

amount to the mere claiming of a use of a particular structure. Ex parte Pfeiffer, 1962 C.D. 408

(1961).

Regarding claims 83 and 94, optical UPC labels are disclosed in Sarma or Brock and

would have been obvious in view of the optical communication in Yang and/or for compatibility

with prior art systems.

Regarding claims 84 and 95, RFID/EMID RF tags are disclosed in Sarma or Brock and

would have been obvious for know advantages such as non-line of sight communication and

suggested by col. 3 line 40-42 of Yang teaching different control and identification signal

mediums such as IR and RF.

Regarding claims 85 and 96, the combination applied above comprises using the data

received from an RFID tag to cause select programming code (i.e., select commands) stored in

remote control device 100's memory 120 (i.e., a library stored locally on remote control device

100) to be mapped to select command keys (see Yang, Col. 3, lines 50-65; Col. 4, lines 6-31 and

52-67; Col. 5, lines 1-32 and 48-67; and Col. 6, lines 1-58).

Regarding claims 86 and 97, Yang teaches that remote control device 100 will

automatically attempt to find the programming code in one of the many download mechanisms,

starting with appliance 160 itself, and request that the programming code for a particular

appliance identifier be downloaded to remote control device 100 when remote control device 100

receives an interface control signal from an appliance 160 that lacks programming code already

stored in remote control device 100's memory 120 (see Yang, Col. 8, lines 54-66); thus Yang, as

modified by Sarma or Brock, teaches using the data received from an machine readable tag to

cause programming code (i.e., select commands) from a library stored within appliance 160 to be

downloaded into remote control device 100 and mapped to select command keys (see Yang,

Figs. 2A, 2B, 3A, and 3B; Col. 4, lines 6-31 and 52-67; Col. 5, lines 1-32 and 48-67; Col. 6, lines

1-58; and Col. 7, lines 26-34).

Regarding claim 108, the combination applied above further comprises remote control

100 device transmitting an RF signal to initiate receiving data via RF signal from the RFID tags

(see the trigger signal in Kitao the corresponds to an interrogation signal from an RFID reader.

Regarding claim 25, the combination applied above comprises receiving data from each

RFID tag within a radio communication area of remote control device 100 (see Yang, Col. 3,

lines 19-29 and Col. 8, lines 10-14; col. 12 line 66 - col. 13 line 37 of Kita; p. 12 of Sarma; and

p. 6 of Brock.

Yang includes receiving identification information from a an appliance send a request to

another device (node) to download a programming code for configuring device. See col. 8 line

49 - col. 9 line 15. Yang differs from the claims by not specifying to interrogate the appliance.

Kitao includes a remote that sends a trigger or interrogation signal to request an appliance

device ID that is used to select a control code from a table to configure the remote. See col. 4

lines 33-64.

Regarding claims 115, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to have included in Yang the interrogation signal of Kitao to allow

the remote control to demand a device code from the appliance for configuring the remote.

Further, RFID/EMID RF tags are disclosed in Sarma or Brock and would have been obvious for

know advantages such as non-line of sight communication and suggested by col. 3 line 40-42 of

Yang teaching different control and identification signal mediums such as IR and RF.

Regarding claims 111, 116, 121 and 126, EPC identifier would have been obvious in

view of Sarma or Brock disclosing such standard identifiers that functions to identify at least the

appliance because the tag of Sarma or Brock enables flexible, simple, extensible and efficient

retrieval of pertinent information to uniquely identify a plurality of items for use in the home and

is suggested by Kitao using a device code with manufacturer and appliance data in a memory

tagging an appliance for configuring a remote controller

Regarding claim 117, capability and configuration information would have been obvious

in view of the programming code of Yang and/or the font data in cols. 10-11 of Kitao.

Regarding claim 118, DAS or device activated setup information would have been

obvious in view of the appliance transmitting a identifier to provide device activated setup.

Regarding claim 119, FCD or functional capability definition information would have

been obvious in view of the programming code of Yang and/or the font data in cols. 10-11 of

Kitao.

9.   Claims 87-88, 90, 98-99 and 101 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Yang (US 6,133,847) in view of Kitao (US006124804A) and [Sarma or

Brock] as applied above, and further in view of Harris et al. (US 2001/0033243).

Regarding claims 87-88, 90, 98-99 and 101, though Yang teaches remote control device

100 automatically attempting to find the programming code in one of the many download

mechanisms and request that the programming code for a particular appliance identifier be

downloaded to remote control device 100 when remote control device 100 receives an interface

control signal from an appliance 160 that lacks programming code already stored in remote

control device 100's memory 120 (see Yang, Col. 8, lines 54-66), the combination applied above

lacks (1) establishing a connection with the library directly from remote control device 100 (as

called for in claims 87 and 97), and (2) establishing a connection with the library by means of an

intermediate device (as called for in claims 88 and 99), wherein (3) the intermediate device is a

personal computer (as called for in claims 90 and 101).

In an analogous art, Harris teaches an online remote control configuration system, as

shown in Figs. 7 and 8, comprising electronic system 100 of remote control configuration system

10 (hereinafter referred to as "remote control 10") that connects to Internet 130 via computer

system 60 (i.e., a personal computer) or directly (see Sections [0050]-[0059]). Harris's method

for setting up remote control 10, which has a microprocessor 116 that retrieves instruction from

memory in order to control remote control 10 (see Sections [0054]-[0055], [0058], and [0061]),

comprises (a) receiving a signal emitted from a remote control corresponding to electronic

device 12 and uploading the sampled signal to control station 40 via Internet 130 or entering

relevant product information of electronic device 12, such as device type and model, to control

station 40 via Internet 130 (see Sections [0047]-[0048] and [0077]-[0084]); and (b) using the

sampled signal to cause configuration data (i.e., select commands) from a library stored at

control station 40 to be downloaded into remote control 10 and mapped to select command keys

(see Sections [0063], [0082], and [0085]-[0086]). As called for in claims 87 and 98, Harris's

method includes remote control 10 establishing an Internet connection with a library stored at

control station 40 directly from remote control 10 (see Fig. 8 and Sections [0059], [0081], and

[0085]). As called for in claims 88 and 99, Harris's method also includes remote control 10

establishing an Internet connection with a library stored at control station 40 by means of an

intermediate device, wherein the intermediate device is computer system 60 (i.e., a personal

computer since remote control 10 is used for controlling home electronic devices), as called for

in claims 890 and 101 (see Fig. 7 and Sections [0059], [0081], and [0085]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to modify the remote control device 100 and method of the combination

applied above as taught by Harris because establishing a connection with the library directly

from remote control device 100 (as called for in claims 87 and 98) or establishing a connection

with the library by means of an intermediate device (as called for in claims 88 and 99), wherein

the intermediate device is a personal computer (as called for in claims 90 and 101), allows

equipment manufacturers to maintain a centralized library containing the programming codes for

each appliance 160, thereby eliminating the need to provide programming codes within each

appliance 160, which reduces production costs, and facilitating programming code updates.

10.   Claims 88-89 and 99-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Yang (US 6,133,847) in view of Kitao (US006124804A) and [Sarma or Brock] as applied above,

and further in view of van Ee et al. (US 6,774,813).

Regarding claims 88-89 and 99-100, though Yang teaches remote control device 100

automatically attempting to find the programming code in one of the many download

mechanisms and request that the programming code for a particular appliance identifier be

downloaded to remote control device 100 when remote control device 100 receives an interface

control signal from an appliance 160 that lacks programming code already stored in remote

control device 100's memory 120 (see Yang, Col. 8, lines 54-66), the method of the combination

applied above lacks establishing a connection with the library by means of an intermediate

device (as called for in claims 88 and 99), wherein the intermediate device is a cable set top box

(as called for in claims 89 and 100).

In an analogous art, van Ee's system, as shown in Fig. 1, comprises (1) programmable

control device 106 that controls apparatus 102 and 104 (see Col. 5, lines 30-49) and (2)

programming means 110, which is a set top box, that programs control device 106 and includes

Internet connection hardware 114 that connects to remote server 118, which has a database (i.e.,

library) of a plurality of respective sets of multiple control signals to control a plurality of

apparatuses (see Col. 5, lines 50-65). Van Ee's method, as shown in Fig. 2, comprises (a) a user

selecting control codes from a database (i.e., library) stored at remote server 118 to be

downloaded into control device 106 and mapped to select command keys at step 202 (see Col. 5,

lines 50-67; Col. 6, lines 1-23; and Col. 7, lines 35-42); (b) remote server 118 identifying all the

sets of control codes corresponding to the user-selected apparatus type/brand combination at step

206 and selecting a particular control code corresponding to a particular function of the apparatus

to be controlled and transmitted the control codes to programming means 110 via Internet 116 at

step 210 (see Col. 7, lines 43-49); (c) programming means 110 interleaving control codes with

associated identifier codes and transmitting the interleaved control signal to control device 106 to

program control device 106 at step 214 (see Col. 7, lines 50-54); (d) the user pressing a button on

control device 106's user interface 108 to transmit a control code and its associated identified

code for each press at step 216 to determine whether the apparatus to be controlled responded to

the transmitted control code at step 218 (see Col. 7, lines 54-58); (e) if the apparatus responded

to a transmitted control code, associating the identifier code associated with the control code that

caused the apparatus to respond with its respective control code at step 220, and transmitting the

respective control code to remote server 118 via Internet 116 at step 22 (see Col. 7, lines 60-66);

(f) remote server 118 identifying the set of control codes in which the respective control code

belongs to at step 22 and transmitting the identified set to programming means 110 at step 226

(see Col. 7, lines 66-67 and Col. 8, lines 1-2); and (g) programming means 110 transmitting the

identified set to control device 106 to associate the control codes of the identified set with control

device 106's multiple user inputs (i.e., to map select commands to select command keys). As

called for in claims 88 and 99, van Ee's method comprises control device 106 establishing a

connection with remote server 118's library by means of an intermediate device, which is a set

top box, as called for in claims 89 and 100 (see Col. 5, lines 50-56; Col. 7, lines 36-67; and Col.

8, lines 1-15).

Therefore, it would have been obvious to one having ordinary skill in the art at the time

the invention was made to modify remote control device 100 and method of the combination

applied above as taught by van Ee because establishing a connection with the library by means of

an intermediate device (as called for in claims 88 and 99), wherein the intermediate device is a

cable set top box (as called for in claims 89 and 100), allows equipment manufacturers to

maintain a centralized library containing the programming codes for each appliance 160, thereby

eliminating the need to provide programming codes within each appliance 160, which reduces

production costs, and facilitating programming code updates.

11.   Claims 91-92, and 102-107 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Yang (US 6,133,847) in view of Kitao (US006124804A) and [Sarma or Brock] as applied

to claim 14 above, and further in view of Gharapetian (US 2002/0101357).

        Regarding claims 91-92, and 102-107, the combination applied above comprises using

the data received from each of the RFID tags to automatically map select commands to select

command keys, as explained in the previous rejections of claim 82, but lacks remote control

device 100 simultaneously commanding a plurality of appliances 160 when remote control

device 100 is placed in such a mode.

        In an analogous art, Gharapetian's method comprises (a) remote control 100 receiving a

plurality of address codes (see Fig. 5 and Sections [0028]-[0031]); and (b) remote control 100

using the received address codes to cause commands to be mapped to select command keys such

that activation of one or more of the select command keys causes remote control 100 to control

an appliance that has been associated with each received address code (see Fig. 3 and Sections

[0018], [0024]-[0026], and [0028]). Regarding claims 91-92, 102 and 105, Gharapetian teaches

that remote control 100 has at least one input device 120 that is dedicated to simultaneously

turning on or off electronic devices 102, 104, and 106 (see Sections [0017], [0019], and [0020]).

In other words, Gharapetian's method comprises using the address codes of electronic devices

102, 104, and 106 to automatically map select commands to select command keys in a mode of

remote control 100 such that a plurality of electronic devices 102, 104, and 106 are

simultaneously commandable when remote control 100 is placed into the mode by a user

pressing input device 120 that is dedicated to simultaneously turning on or off electronic devices 102, 104, and 106. Once the command sequence/macro is setup, it is stored in memory (par. 0023 of Gharapetian) without again requiring the setup procedure. Obviously, the setup may include user input of the address or input of the address from a tag as suggested by col. 9 lines 16-25 teaching appliance ID input by user selection or signal from the appliance. Regarding claims 103-104 and 106-107, it is understood that the pressing of input device 120 that is dedicated to simultaneously turning on or off electronic devices 102, 104, and 106 places remote control 100 in a home theater mode (as called for in claims 103 and 106) or room mode (as called for in claims 104 and 107) since pressing input device 120 simultaneously turns on or off a home theater system comprising amplifier 102, TV 104, DVD player 106, control boxes for room lighting, control boxes for controlling a room's curtains, etc. (see Sections [0006]-[0009], [0017], and [0019]).

12.   Claims 110, 112-114, 120, 122-125 and 127-129 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (US 6,133,847) in view of Kitao (US006124804A).

Yang was discussed above to include receiving identification information from a an appliance send a request to another device (node) to download a corresponding programming code for configuring device. See col. 8 line 49 - col. 9 line 15. Yang differs from the claims by not specifying to interrogate the appliance.

Kitao was discussed above to include a remote that sends a trigger or interrogation signal to request an appliance device ID that is used to select a control code from a table to configure the remote. See col. 4 lines 33-64.

Regarding claims 110, 120 and 125, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Yang the interrogation signal of Kitao to allow the remote control to demand a device code from the appliance for configuring the remote.

Regarding claims 112, 122 and 127, capability and configuration information would have been obvious in view of the programming code of Yang and/or the font data in cols. 10-11 of Kitao.

Regarding claim 113, 123 and 128, DAS or device activated setup information would have been obvious in view of the appliance transmitting a identifier to provide device activated setup.

Regarding claims 114, 124 and 129, FCD or functional capability definition information would have been obvious in view of the programming code of Yang and/or the font data in cols. 10-11 of Kitao.

Allowable Subject Matter

13.   Claims 72-81 are allowed.

Response to Arguments

14.   The 112 second paragraph rejection has been overcome by applicant's amendments, but a new 112 first paragraph rejection was necessitated in view of applicant's amendments.

15.   Applicant's arguments filed 09-25-2008 regarding the prior art rejections have been fully considered but they are not persuasive.

The examiner disagrees with applicant's general allegation that the rejections don't

include all the claimed limitations. Each and every word of the claims have been properly

considered, searched and addressed the prior art rejections for the reasons stated in the rejections

and in the response to arguments.

The argument that the examiner admits that Stefanik, Kaario, Nickum, Yang, Kitao,

Sarma and/or Brock do not suggest the claimed invention is incorrect. The examiner makes no

such admission.

In response to applicant's arguments against the references individually, one cannot show

nonobviousness by attacking references individually where the rejections are based on

combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re*

Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Regarding claims 68-71, applicant argues that reliance within the rejection upon the mere

disclosure within Stefanik that information stored on the removable smart card could also

contain user Internet profiles and information including access to email, Internet browser

bookmarks, account names, address lists, hosts, security features, and display formats pertaining

to Internet browsing on a television monitor it is respectfully submitted that this disclosure does

not expressly or inherently disclose, teach or suggest using of data received from an RFID tag

and forwarded from a universal remote control to retrieve from the memory device in an

appliance one or more configured appliance operational preferences that have been mapped to an

individual represented by the data received from the RFID tag. This argument is not persuasive

because the examiner not rely on Stefanik merely disclosing the smart card may contain internet

profiles etc. to expressly or inherently disclose retrieving preferences that have been mapped to

an individual represented by the data received/forwarded from the RFID tag. Instead, the

rejection relies on the combination Stefanik, Kaario and Nickum to teach the forwarding and

retrieving limitations would have been obvious.   Stefanik discloses that the remote control

includes a reader/writer 90 that reads information from a smart card 92 and sends the information

to microprocessor 84. Microprocessor 84 of Stefanik transmits the information 86 that transmits

the information read from the smartcard to receiver 144 of the consumer device. This is clearly

forwarding.   Regarding retrieving from memory associated with the appliance preferences

mapped to the individual identified by the tag/card, this would have been obvious in view of the

user preferences in memory associated with appliance 340 and retrieved in response to the

RFID/card information assigned to the user in par. 0040-0043, 0053-0056 and 0063-0064 of

Kaario and is further obvious in view of activating preferences mapped to ID's forwarded

(received) from the remote controller in Nickum. Configuring the preferences would have been

obvious in view of the preferences being configured or customized by the user in Stefanik,

Kaario or Nickum.

Although Stefanik does not expressly disclose the smartcard to be an RFID tag, the

smartcard includes identification data that can be contactless, suggesting RFID tag. Mapped

preferences are not expressly disclosed, but suggested by the smartcard including bookmarks,

account names, etc. suggesting linked or mapped settings.

Applicant argues that Kaario discloses two alternative embodiments of (first) uploading

preference information from RFID token or other device, (second) uploading from RFID tag a

pointer to a relay location on a network with a URL to an Internet server with a profile meant *not*

to maintain and, hence, retrieve from memory in a controllable appliance configured profile

data but is meant to maintain and, hence download from a centralized store profile data to

overcome problems with the first embodiment. The argument is not persuasive because the

disclosure of Kaario does not require a second embodiment with a *profile not maintained in an*

appliance because par. 0039 of Kaario discloses that mass storage containing the profile may be

stored locally or remotely. The entire computer/appliance could be replaced with a server

operating offsite. Therefore, the profile on the server may be *maintained in the appliance*,

because the server may be the appliance. Further, the local/remote memory/server of Kaario is

sufficient to encompass applicant's claimed "memory in an appliance" that is further suggested

by Nickum storing profiles and mappings to ID's in storage on the TV as an alternative to the

remote controller. Also, par. 0043 of Kaario states that the instead of URLs, the location data

may be any suitable addressing mechanism permitting the location of data that corresponds to

preferences in memory mapped to an individual. The argument that the profile of Kaario is not

maintained on an appliance because it may be moved from central store to various appliances is

not persuasive because when the profile is moved to an appliance it is maintained on the

appliance. Note par. 0062, lines 16-19 maintains the profile on the appliance for at least a period

of time. Further, moving profiles to various appliances is not precluded by applicant's claims.

Regarding configuring the appliance according to retrieved configured appliance operational

preferences, such would have been obvious for the reasons stated in the preceding paragraph.

The argument that Kaario "teaches directly against" the invention is not persuasive because

Kaario does not directly state that the invention does not work. The argument that par. 39 line 5

has no relevance in incorrect. This line discloses the profile stored at appliance/computer 240.

Therefore, applicant's argument that the appliance of Kaario teaches away from the appliance

maintaining the user profile is incorrect. The argument that the information in mass storage of

Kaario is never mapped to anything is incorrect because par. 0048-0049 disclose adding and

removing users. The profiles must be mapped to the users to determine what profiles to

add/remove.

The argument that Nickum discloses user ID of alphanumeric keys input on a remote and

sent to an appliance to determine a level of access does not suggest "at least the claimed elements

of using of data received from an RFID tag and forwarded from a universal remote control to

retrieve from the memory device in an appliance the one or more configured appliance

operational preferences that have been mapped to the individual represented by the

data received from the RFID tag and configuring the appliance according to the retrieved,

configured appliance operational preferences" is not persuasive because Nickum discloses using

user ID to select a user customizable profile (abstract) that correspond to the mapped, configured

preferences of applicant's claims. Obviously, the ID may be input by a smartcard or RFID tag

instead of manual entry on alphanumeric keys as taught in par. 0066 of Kaario. Configuring at

an appliance would have been obvious for the reasons stated above.

The argument that no (individual) reference of record suggests (or discloses or teaches)

"all of the elements" recited in applicant's claims is not persuasive for the reasons stated above.

In response to applicant's argument that there is no suggestion to combine the references,

the examiner recognizes that obviousness can be established by combining or modifying the

teachings of the prior art to produce the claimed invention where there is some teaching,

suggestion, or motivation to do so found either in the references themselves or in the knowledge

generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5

USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Kaario teaches reading an ID from an RFID token or tag to identify a user profile as an alternative to uploading the profile form a smartcard as in Stefanik or manual input as in Nickum. Nickum further teaches inputting user ID into the remote to select a profile on an appliance as an alternative to uploading storing/uploading profile into the remote as in Stefanik. Also, alternative location would have obvious since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70. Further, the references identify a finite number of input mechanisms and/or locations for the problem of selecting a user profile that would have established prima facie case obvious in view of the obvious to try rationale in MPEP 2143.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Applicant alleges that Kaario only teaches substituting a URL pointer for the card of Stefanik and Nickum only teaches substituting keystrokes for the memory card of Stefanik and such substitutions would not result in each and every word of the claims. The examiner disagrees because the references are not limited to the substitutions characterized by applicant. The transponder or token ID is the same as the URL in Kaario (par 0056), suggesting RFID function as a user ID input that avoids the inconvenience of requiring the user to remember the

ID code in Nickum (col. 1 lines 32-36). Locating the RFID token/card reader at the remote as in

Stefanik rather than at the appliance as in Kaario would have been obvious because "Having the

smart card reader/writer 90 in the remote control device 80 allows multiple users to move

between several different removable smart cards 92 easily and quickly since the user no longer

needs to have to walk over to the consumer electronic device 140 to swap out different smart

cards, thus increasing convenience and productivity" in Stefanik (col. 7 lines 34-41).

Regarding claims 82-86, 93-97 and 108-109, the argument that by acknowledge

admission, Yang has a single data interface that must fail to anticipate a device of the universal

remote dedicated to obtaining data from a machine readable tag is not persuasive because at least

col. 3 lines 40-46 of Yang discloses different medium for transmitting control information and

reading or downloading ID or programming code. Note that the claims are not rejected as

anticipated by Yang alone, but as obvious in combination with Kitao because different medium

suggest different or dedicated devices as provided by the two separate transmitters in Kitao.

Such a modification would have bee obvious since it has been held that constructing a formerly

integral structure in various elements involves only routine skill in the art. Nerwin v. Erlichman,

168 USPQ 177,179. Kitao and Yang do not recite the term RFID, but include ID memory

attached to the appliance that suggests an RFID. The argument that Yang "teaches directly

against" the claimed invention is incorrect because Yang does not expressly state that each and

every word of the claims must not work.

The argument that Kitao, like Yang, discloses an appliance with hardware and software

to configure a remote control is not persuasive because the appliance of Kitao includes an ID or

device code storage attached to the appliance and suggesting an RFID tag. Further, Kitao

includes a trigger transmitter 301 dedicated to requesting or obtaining the ID that is separate

from the command transmitter 302.   The argument that Kitao lacks using in a setup procedure of

the universal remote control the information accessed as a result of receiving the data to cause

selected commands to be mapped to selected keys ant thereby configure the universal remote

control to transmit commands to an appliance is not persuasive because Kitao need not disclose

again what is already disclosed by Yang. Yang disclosed the mapping in col. 4 lines 6-14 and

47-57.

The argument that Yang and Kitao disclose the appliance providing the hardware and

software for remote control setup rather than a machine readable tag is not persuasive because

the appliance of Yang and Kitao communicates information such as identifier or device code for

configuring the remote and such an identifier or code does function to tag the appliance with an

ID. Further, Sarma and Brock are applied to teach using RFID tags to identify such appliances.

Regarding Sarma, applicant argues:

> Sarma merely states that "...it *is likely that[RFID] tags will find new and*
> *unexpected uses."* (page 7, section 4.3, second paragraph). It is respectfully
> submitted that nothing within the record evidences that the claimed invention
> is not one such new and unexpected use for RFID tags.

This argument is not persuasive because Sarma is not limited to this one statement, rather

Sarma discloses using RFID tags for plug and play in the home (sec. 8.2) and HAVi (home

appliance) self configuring device discovery (sec. 8.4) on pages 14-15 that suggests using tag

reader and RFID tags for the home appliance remote control of Yang and/or Kitao.   Applicant

has provided no evidence that the phrase "new and unexpected uses" applies to applicant's

claimed invention.   The examiner has presented evidence of obviousness and applicant's general

allegation of new and unexpected use will not be persuasive absent submission of sufficient

evidence by applicant. The argument that Brock is limited to supply chain and store

management processes is not persuasive because Brock clearly discloses use in diverse

environments such as the home in sec. 2, par. 2 on pg. 5.

The argument that no (individual) reference of record suggests (or discloses or teaches)

"all of the elements" applicant's claims is not persuasive for the reasons stated above.

The argument that there is no reason to combine the references is not persuasive because

reasons are applied in the rejection. For example, Kitao teaches a dedicated ID code obtaining

transmitter for the problem of configuring a remote as an alternative to a single transmitter that

also transmits control codes (see MPEP 2143). Sarma and Brock teach using RFID in the home

for configuring devices with advantages such as flexible, simple, extensible and efficient

retrieval of pertinent information to identify items for use in the home and suggested by Kitao

disclosing device code with manufacturer and device data in the a memory tagging an appliance

for configuring a remote controller.

The argument that the combination would require extensive redesign of the system of

Yang is not persuasive because the test for obviousness is not whether the features of a

secondary reference may be bodily incorporated into the structure of the primary reference; nor

is it that the claimed invention must be expressly suggested in any one or all of the references.

Rather, the test is what the combined teachings of the references would have suggested to those

of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

The prior art rejections of claims 82-86, 93-97, and 108-109 are proper for the reasons

discussed above. Applicant has not presented arguments regarding claims 87-92 and 98-107,

therefore the prior art rejections of claims 87-92 and 98-107 are also proper for the reasons stated

above..

Applicant has not presented any particular arguments regarding the patentability of new

claims 110-129 over the applied prior art. Therefore the rejection are proper for the reasons

stated above.

Regarding claims 110, 112-114,120,122-125 and 127-129, the general allegation that no

(individual) reference of record suggests (or discloses or teaches) "all of the elements"

applicant's claims is not persuasive for the reasons stated in the prior art rejections.

Applicant argues that no art of record discloses, teaches, or suggests at least the claimed

using by a setup procedure of information *corresponding* to a device identifier, particularly an

identifier received from a radio-frequency identification tag or information retrieved from a node

that corresponds to a device identifier that is first received at the remote control and provided to

the node, to configure the remote control to control operations of an appliance as claimed. In

response to applicant's argument that the references fail to show certain features of applicant's

invention, it is noted that the features upon which applicant relies (i.e., RFID tag) are not recited

in the rejected claims 110, 112-114,120,122-125 and 127-129. Although the claims are

interpreted in light of the specification, limitations from the specification are not read into the

claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Regarding a

node, Yang discloses that the appliance transmits a signal to identify itself to the remote control

and the remote control device will attempt to find corresponding information (programming

code) in one of the many download mechanism and request that the programming code for that

particular appliance identifier be downloaded to the remote in col. 8 line 49 - col. 9 lines 15. The

download mechanism, such as devices on a LAN or storage devices represent nodes. See col. 7

lines 48-57 and col. 8 lines 30-48. For the reasons stated above, applicant's allegation that it has

been acknowledged that Yang does not disclose this claimed aspect of the invention is incorrect.

Applicant's allegation that it has been acknowledged that Kitao discloses using a device identifier

alone that is received at the remote control to configure the remote control is not persuasive

because Yang already discloses requesting configuration information corresponding to the

identifier from various download mechanisms. Further, the remote control of Kitao may be

configured by information (data, such as font data) in addition to the identifier (col. 10 line 20 -

col. 11 line 22).

The rejections of claims 68-129 are proper for the reasons stated above.

Interference

16.   The request for interference filed 4-30-08 is acknowledged. However, examination of

this application has not been completed as required by 37 CFR 41.102(a). Consideration of a

potential interference is premature. See MPEP § 2303.

Conclusion

17.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (571) 272-3058. The examiner can normally be reached on M-F from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Zimmerman, can be reached on (571) 272-3059.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

2/5/2009   /Edwin C. Holloway, III/
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